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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/001,565	12/31/1997	HARLEY J STABER		6784

7590 03/19/2002

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P O BOX 489
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EXAMINER

HAROLD, JEFFEREY F

ART UNIT	PAPER NUMBER
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2644

DATE MAILED: 03/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/001,565

Applicant(s)

STABER ET AL.

Examiner

Jefferey F. Harold

Art Unit

2644

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 February 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed February 21, 2002, have been fully considered but they are not persuasive.

Regarding applicant's argument concerning telephone company wires, this argument has already been addressed in examiner's office action mailed on November 21, 2001.

Regarding applicants argument concerning discrete electrical signal, this argument has already been addressed in examiner's office action mailed on November 21, 2001.

Regarding applicant argument concerning first pair, second pair and pair of outside wires, the examiner respectively disagrees since Collins more than adequately provides support for the claimed invention as support by the rejection provided in examiner's office action mailed on November 21, 2001.

Regarding applicant argument concerning second inside pair of terminals located on the block, the examiner respectively disagrees since Collins more than adequately provides support for the claimed invention as support by the rejection provided in examiner's office action mailed on November 21, 2001.

Regarding applicants argument concerning Russell rectifying the failings of Collins, this argument has already been addressed in examiner's office action mailed on November 21, 2001.

Regarding applicants argument concerning a splitter circuit, this argument has already been addressed in examiner's office action mailed on November 21, 2001.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., second signal comprising at least a different portion of the combined signal) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding applicant argument concerning the POTS splitter circuit electrically connected to a first jack, the examiner respectfully disagrees since Russell more than adequately provides support for the claimed invention as support by the rejection provided in examiner's office action mailed on November 21, 2001.

Regarding applicants argument concerning providing sufficient justification to support combining the references, this argument has already been addressed in examiner's office action mailed on November 21, 2001.

Regarding applicant argument concerning a second jack and second plug, the examiner respectfully disagrees since Russell more than adequately provides support for the claimed invention as support by the rejection provided in examiner's office action mailed on November 21, 2001.

Regarding applicant argument concerning that one of ordinary skill in the art would have recognized that a second jack would have been provided for testing, the examiner respectfully disagrees since the rejection provided rational for the inherent

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characteristic that more than adequately provides support for the claimed invention as support by the rejection provided in examiner's office action mailed on November 21, 2001.

Regarding applicant argument concerning why one of ordinary skill in the art would have been motivated to combine, the examiner respectively disagrees since the examiner provided motivation as support by the rejection provided in examiner's office action mailed on November 21, 2001.

Regarding applicant arguments concerning the examiner taking official notice concerning (1) blocks of sufficient size, (2) combined signal jack and combined signal plug, and (3) test point for the combined telephone company signal, the examiner respectively disagrees since MPEP 2144.03 provides the basis for obviousness type rejections based on reliance of common knowledge in the art or "well know" prior art. Further the examiner concluded that these were statements taken to be admitted prior art, since the applicant's arguments provided in the response dated February 21, 2002, where not timely and did not meet the requirements of MPEP 2144.03. MPEP 2144.03 requires that the applicant traverse the examiner's assertion of official notice, by specifically pointing out the supposed errors in the examiner's office action by stating why the noticed fact is not considered to be common knowledge or well-known in the art.

Regarding applicant arguments concerning objective evidence of record concerning the obviousness-type double patenting rejection the examiner respectively disagrees since MPEP 2144.03 provides the basis for obviousness type rejections

based on reliance of common knowledge in the art or "well know" prior art. The rationale provided more than adequately provides support for the claimed invention as support by the double patenting rejections provided. Further, the examiner provided motivation as support by the double patenting rejections in examiner's office action mailed on November 21, 2001.

Regarding applicant's arguments concerning (1) the first jack and first plug, (2) the second jack, and (3) the second plug, these arguments have already been addressed in examiner's office action mailed on November 21, 2001.

Conclusion

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jefferey F. Harold whose telephone number is (703) 306-5836. The examiner can normally be reached on Monday-Friday 7:30am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W. Isen can be reached on (703) 305-4386. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

JFH

JFH
March 16, 2002



FORESTER W. ISEN
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